

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA**

<b>RAYFORD BONNER, II, et al.,</b>	)	
	)	
<b>Plaintiffs,</b>	)	
	)	
<b>v.</b>	)	<b>Case No. CIV-09-791-R</b>
	)	
<b>SHERIFF JOSEPH K. LESTER,</b>	)	
<b>et al.,</b>	)	
	)	
<b>Defendants.</b>	)	

**ORDER**

Before the Court are the Report and Recommendation of United States Magistrate Judge Gary M. Purcell entered October 26, 2009 [Doc. No. 31] and the following pleadings filed by Plaintiffs: 1) a motion for injunction [Doc. No. 32] filed by Plaintiff Marcelino Martinez on October 26, 2009; 2) a motion for appointment of counsel [Doc. No. 33] filed by Plaintiff Marcelino Martinez on October 30, 2009; 3) a “Petition and Response” [Doc. No. 35] filed by Plaintiff Rayford Bonner, II on November 6, 2009; 4) a “Petition and Response” [Doc. No. 36] filed by former Plaintiff James Jordanoff, IV on November 6, 2009; and 5) an Objection to the Report and Recommendation [Doc. No. 37] filed by Plaintiff Sean A. McClendon on November 9, 2009. The only party who has actually objected to the Report and Recommendation is Plaintiff McClendon who states, by and through his mother, that it is his wish that all four Plaintiffs jointly file this claim. However, for the reasons explained by the Magistrate Judge in the Report and Recommendation, because Plaintiffs failed to file an Amended Complaint as ordered by this Court and because it is apparent from

the pleadings filed both before and subsequent to the Report and Recommendation that the Plaintiffs do not get along and are unable to cooperate to proceed jointly in this action, joinder is improper. Therefore, the Report and Recommendation of the Magistrate Judge [Doc. No. 31] is ADOPTED in its entirety and the Court Orders the following:

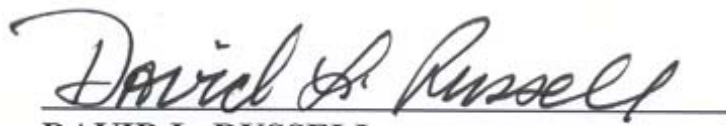
- (1) The Motion for Voluntary Dismissal purportedly filed by Plaintiff Jordanoff but actually filed by Plaintiff Martinez [Doc. No. 20] is STRICKEN from the record as a fraudulent pleading;
- (2) the “Petition” filed by Plaintiff Jordanoff [Doc. No. 26], construed as a motion seeking reinstatement as a plaintiff in this action, is GRANTED;
- (3) Plaintiffs Bonner, McClendon and Martinez are DISMISSED from this action without prejudice to their filing individual actions;
- (4) the applications to proceed *in forma pauperis* filed by Plaintiffs Bonner [Doc. No. 15], McClendon [Doc. Nos. 12 & 30] and Martinez [Doc. No. 14] are DENIED without prejudice to their renewal in new 42 U.S.C. § 1983 actions filed separately by each of these Plaintiffs;
- (5) the Motion for Order for Injunction jointly filed by Plaintiffs Martinez, Jordanoff and Bonner [Doc. No. 5] is DENIED without prejudice to its renewal by Plaintiff Jordanoff, proceeding individually, in this action, and to its renewal in other actions filed separately by Plaintiffs Martinez and Bonner; and
- (6) the Motions for Leave to Amend the complaint filed by Plaintiffs Martinez [Doc. No. 28] and McClendon [Doc. No. 29] are DENIED without prejudice.

Additionally, in light of the foregoing, Plaintiff Martinez' motions for an injunction [Doc. No. 32] and for appointment of counsel [Doc. No. 33] are DENIED as moot without prejudice to their reassertion in a 42 U.S.C. § 1983 brought by Martinez individually.

Plaintiff Jordanoff is ORDERED to file an Amended Complaint pursuant to 42 U.S.C. § 1983 asserting only claims specific to him and to pay the full filing fee or file a new application to proceed *in forma pauperis* within twenty (20) days of the date of this Order. Failure to comply with this Order may result in dismissal of this action.

The Court Clerk shall send copies of the forms for a civil complaint pursuant to 42 U.S.C. § 1983 and for an application for leave to proceed *in forma pauperis* with the copies of this Order which are mailed to the four putative Plaintiffs.

IT IS SO ORDERED this 16th day of November, 2009.

  
DAVID L. RUSSELL  
UNITED STATES DISTRICT JUDGE